

BACKGROUND– **Talking Politics**

“Sovereignty is absolute. We are unique to this land. And with that uniqueness comes special powers of sovereignty.... We’re still here today asserting our sovereignty. We’re not going to go away.”

Reuben ‘Butch’ Phillips, Penobscot, on Wabanaki sovereignty, Earth Day, 2001.

Sovereignty can be a difficult concept to define, in part because (like so many other political constructs) its meaning has changed over time. At its most basic, though, sovereignty is the right of a people to self-govern. Whether this right is seen as flowing from the people themselves, from some spiritual source, or as a “law of nature,” most cultures would include political sovereignty as a basic human right. The Wabanaki people of Maine have been struggling with issues of sovereignty ever since Europeans arrived on these shores.

The seventeenth century was a time of change and disruption for Maine Native people. Their traditional culture and social structure were torn apart by the introduction of European trade goods, by repeated cycles of epidemic diseases that killed over 75% of the population, and by the economics of the fur trade which introduced guns and alcohol, forcing people from traditional life ways into participation in the larger European money economy. Reeling from these rapid changes and greatly reduced in numbers, the Wabanaki people regrouped their family and political units and adapted to life in this changed New World.

Native people and Europeans attempted to regularize and regulate their relationship to each other through the use of written instruments—deeds and treaties. The English settlers were eager to acquire land from the Wabanaki. In return for land, the Indians received trade goods. A number of so-called “Indian deeds” still exist, usually signed on the Indians’ part by small drawings of animals or some other symbolic representation. Although dealing with the same document, Wabanakis and Europeans saw these land transactions differently. To the Wabanaki, the land was a living thing, shared with the creatures on it, to be held in trust for future generations. The very structure of the Algonquian languages reflects a different approach to the natural world than that of European language speakers. If language structures thinking, as many scholars believe, then it was quite literally unthinkable for a Wabanaki to “sell” land. Instead, when they signed deeds, they were giving permission for the Europeans to use the land for a period of time, or possibly to share the use of the land. For this, the Europeans gave them gifts. The English, on the other hand, saw land as something to be bought and sold, like any other commodity. It was not surprising that both sides felt wronged by these transactions.

From 1675 through 1763, Maine was the scene of an almost continuous series of six Anglo-Wabanaki wars. Most of these, like King William’s War (1688-1699) and Queen Anne’s War (1703-1713), were outgrowths of European conflicts between England and France. The English and French were also fighting for control of North America. Many Wabanaki considered themselves allies of the French, whose priests had lived among them and learned their languages.

However, most also traded with the English at their increasingly common trading posts along Maine's coasts and rivers. The English were explicitly aware of the dual nature of this commercial relationship, instructing the captains of their trading posts to use trade to counteract French influence and make allies of the Wabanaki. Some wars, like Dummer's (or Lovewell's) War (1721-1726) were local wars, caused by increasing British encroachment on Wabanaki lands. Frequently drawn into these wars reluctantly, throughout this troubled time the Wabanaki were struggling to maintain their sovereignty and preserve their way of life through a variety of approaches, usually trying diplomacy and accommodation before resorting to war.

Most of these wars were concluded with treaties. Like deeds, treaties were frequently understood differently by the two cultures. For the English, written documents were seen as absolute, setting the status quo in stone. For the Wabanaki, with a rich and fluid oral tradition, written documents were of less importance than the actual day-to-day political situation. Translation between languages was also a problem. Again and again treaty terms were mistranslated, either through ignorance or through duplicity, so that while the Wabanaki thought they were "saluting" the English king, the English had them "submitting" to British authority. And English and Wabanaki negotiating styles differed. Faced with an especially difficult problem, the Wabanaki would go on to something easier, intending to return to the more problematic matters after a basis of agreement was established. The English saw this silence on an issue as agreement with their position. Leadership structures, on which the validity of treaties depended, were also different in the two cultures. The English assumed that the individual leaders they were dealing with had the authority to speak for all their people. When the sakoms said they could not guarantee the behavior of the young men in their group, they were simply stating social realities and not defying the British negotiators.

Finally, there was the problem of sovereignty. The Wabanakis saw themselves as a free and independent people, trying to protect their land and their way of life against increasing pressure from European traders and settlers. Neither the French nor the English, with their "civilized" European perspective, were able to see the Wabanaki this way. Instead, they must be either French subjects or English subjects. This mind set is evident in the English treaties, which had titles like "The Submission and Agreement of the Eastern Indians" (the Treaty of Portsmouth, signed in 1713 and ending Queen Anne's War).

As a result of this unrelenting cycle of war, which inevitably led to the destruction of Wabanaki villages and food supplies and further encroachments on their traditional lands, many Wabanaki broke into small family bands and moved away from the coast, the area most impacted by British trade and settlement. By the end of the French and Indian War (the last of the Anglo-Wabanaki wars) in 1763, many were living as refugees in Penobscot and Passamaquoddy villages, with the Mohawk in St. Regis, New York, or in the Catholic mission communities at Caughnawaga, Odanak (St. Francis) and Wôlinak (Beçancour) in Quebec. There were few Wabanaki left in southern or western Maine, certainly no large tribal bands, and it

is estimated that at the end of the French and Indian War there were fewer than 1,000 Native people in the state. The defeat of the French left the Wabanaki without their traditional allies and opened their lands to a flood of English settlement. After the final French defeat at Quebec in 1759, representatives of the Passamaquoddy, along with those of the other Wabanaki tribes, signed treaties with England. The attitude of the victorious British is captured in the response of Governor Bernard of Massachusetts to Penobscot complaints about loss of their land: “The English have conquered this whole country; and the Indians must not prescribe to them what shall be the bounds of their settlements.”

While dealing with the increasing pressures of European encroachment in their homeland, the Wabanaki also sought to preserve their sovereignty through alliances with other Native peoples. Matters of importance to the Wabanaki as a whole, like alliances with other groups or division of hunting territories, had historically been negotiated and decided at meetings of sakoms, usually held in the summer. Long before the Europeans arrived in the New World, the Wabanaki had relationships, primarily through trade of items like copper, Ramah chert and wampum, with peoples from Labrador to southern New England. Their traditional enemies were the Iroquois Nations to the west, long the allies of the English. In 1700, the French mediated a treaty between the Wabanaki in Maine, New Brunswick and Nova Scotia and the Five Nations of the Iroquois, thus opening the door for increased interactions between these peoples.

During this era, the four contemporary Wabanaki tribes—the Penobscot, Passamaquoddy, Maliseet and Micmac—while remaining separate nations, joined together to form the Wabanaki Confederacy. The Confederacy gave the Wabanaki a formal structure for the tribes to interact with each other, settling disputes and selecting new chiefs when necessary. The Confederacy was part of a larger alliance of Catholic Indians, including the Hurons, known as the Seven Nations of Canada, whose central council fire burned among the Mohawk at Caughnawaga, near Montreal. Member nations used wampum belts as mnemonic devices to call people to council, some of which are still in existence. Among other matters, this alliance affirmed political decisions taken by its members and ratified the election of their chiefs. It may be that the concept of elected, rather than hereditary, leaders was introduced to the Wabanaki through the Caughnawaga council. The authority of the Caughnawaga council over the nations of the Wabanaki Confederacy is not entirely clear, but there is some evidence that the treaty between the Passamaquoddy and Massachusetts signed in 1794 was confirmed at Caughnawaga. Most Wabanaki trips to Caughnawaga were to reaffirm the basic treaty of peace and friendship with the Seven Nations. During the nineteenth century, the importance of the Caughnawaga council declined, perhaps in part because of decreased Wabanaki participation. The last record of interaction between the Caughnawaga council and the Wabanaki Confederacy is a reference to a Passamaquoddy delegation traveling to Caughnawaga in 1870.

During the Revolutionary War, most Passamaquoddy were non-belligerents friendly to the American cause, and the entry of the French into the war in 1778 created more pro-American feeling. In 1782, John Allan, who had been appointed by the Continental Congress as superintendent to the eastern Indians and who had himself fought at Machias, reported that 51 Penobscots, 46 Passamaquoddy, 51 Maliseets and 39 Micmacs had “been in the service of the United States” during the war. Passamaquoddy fighters helped defend Machias against an attack by the British in 1777. One effect of the war was that many of the Passamaquoddy who had lived in the area of St. Andrews, New Brunswick, left in 1784 when loyalists moved into the area. They first migrated to Deer Island in Passamaquoddy Bay, and when that too was declared British territory, they joined other Passamaquoddies at their present territory in Washington County, Maine.

In 1794, the Passamaquoddy signed a treaty with Massachusetts giving up all their land in eastern Maine except for about 23,000 acres, which includes the sites of the present Passamaquoddy reservations at Indian Township (Peter Dana Point) and Sipayik (Pleasant Point). Moving into the 19th century, the State adopted an increasingly paternalistic attitude towards the Native people living within its boundaries. Maine separated from Massachusetts and became a state in 1820. At that time it is estimated that the Wabanaki, whose world this had been, owned only a few thousand acres statewide.

From 1821 to 1839, the State sold or leased parts of the remaining Passamaquoddy land without participation or permission of the Passamaquoddy, and authorized timber harvesting on their territory, all in violation of the 1794 treaty. In 1856, a Passamaquoddy trust fund was established, the money coming from the sale of timber, grass and power rights on Passamaquoddy land. Although the terms of the fund specified the payment of interest at the rate of 6% annually, no interest was paid for one hundred and ten years, from 1859 to 1969. The relationship of the Wabanaki to the State of Maine is summarized in an 1842 decision from Maine’s highest court, which said, “...imbecility on their [the Indians’] part, and the dictates of humanity on ours, have necessarily prescribed to them their subjection to our paternal control; in disregard of some, at least, of abstract principles of the rights of man.” In 1892, Maine courts declared that the Passamaquoddy Tribe no longer existed, and so its people were completely subject to state law. Passamaquoddy sovereignty was at a low ebb.

The mid-1800s were difficult times for the Passamaquoddy. As well as the external forces of poverty and state control, there was also dissension within the tribe. People disagreed on two major issues. The first was education—whether children should be taught in English by Protestant teachers, or by the traditional Catholic priests and nuns who taught in French. The second issue was the selection of leaders—should chiefs serve for life, as was traditional, or be elected periodically. Among the Passamaquoddy, differences on these issues were serious enough that in 1851 some tribal members split off from the reservation at Sipayik and formed a new community at Peter Dana Point. Although the issues were eventually settled by compromise, the two separate reservations still exist today.

In the early years of the 20th century, government policy towards Indians encouraged assimilation into the dominant culture on the assumption that the tribes would eventually cease to exist as separate political entities. Although the Passamaquoddy have sent non-voting representatives to the Maine legislature since 1842, Maine Native people, the first residents of this land, did not receive the right to vote in federal elections until 1954, or state elections until 1967, making Maine the last state in the nation to enfranchise its Native American citizens. Despite government policy and the obstacles of poverty and discrimination, the Passamaquoddy and other Wabanaki groups continued to maintain their identity as a people and to nurture their traditional culture.

The most recent chapter in the story of Passamaquoddy attempts to retain their sovereignty began on a February afternoon in 1964 when George Stevens, a tribal member, heard a chain saw start up next door and went to investigate. He discovered that the white man who had recently bought the land next door was clearing the area to put in a road. Knowing that the tribe had not been consulted about this, George Stevens conferred with his brother John, then the tribal governor at Indian Township. John Stevens thought of Louise Socabesin, his wife's great-aunt, who showed him a copy of the old 1794 treaty with Massachusetts which she had stored for many years in a shoe box. Almost a quarter of the 23,000 acres protected by that treaty had been sold or passed out of Passamaquoddy control. The law suit that began that day would not end until 1980, when President Jimmy Carter signed the legislation authorizing the Maine Indian Land Claims Settlement.

The first link in a long chain of legal events was the decision by a federal judge that the Trade and Intercourse Act of 1790 did apply to Maine Native peoples. This Act said that all treaties between Indians and the states had to be approved by Congress. The 1794 treaty with Massachusetts had never been approved, and so was invalid. This led to the recognition by the U.S. Government of the Passamaquoddy, the Penobscot and the Houlton Band of Maliseets as federal Indians*. It recognized their status as sovereign people, entitled to enact their own laws on their lands. In addition, the tribes were acknowledged to have a special trust relationship with the federal government that entitled them to the same benefits in areas like health care and education as other federal tribes. Perhaps most importantly, since the 1794 treaty was invalid, it required the U.S. government to sue the State of Maine on the Indians' behalf for the return of their traditional lands—12.5 million acres, about 60% of the state—unless a settlement could be worked out.

As it became clear that the government was serious about the suit, the State reluctantly came to the bargaining table. The final result was a compromise. While the Passamaquoddy, Penobscot and Maliseets remain federally-recognized tribes, the terms of the Land Claims

(Footnote)

*The Aroostook Band of Micmacs finally received federal recognition in 1991 after a long process of research and petition to the U.S. Federal government.

Settlement required them to function more like cities than like nations, and their lands are subject to Maine law. The tribes do, however, control internal tribal matters like membership; determination of who may live on tribal land; tribal organization, government and elections; and the disposition of the funds which were part of the settlement. The tribes have their own courts which have jurisdiction over minor crimes and civil disputes, minor juvenile matters, divorce and child custody cases. The tribes make their own hunting and fishing regulations for their lands, but there are some restrictions and they may be overruled by the State if they cause a negative effect on wildlife outside Indian territory. The tribes are also effectively subject to State taxes. And finally, the tribes gave up all future claims to land in Maine.

In return for these limits on their sovereignty, the three tribes received a settlement, funded by the federal government, of \$81,500,000. Of this almost \$55,000,000 was set aside for the purchase of 300,000 acres of land, the remainder going into trust funds. The Maine Indian Land Claims Settlement was the largest monetary settlement ever negotiated in such a case, and the first which required that land actually be returned to the status of Indian territory. While many tribal members saw the financial benefits of the Land Claims Settlement as securing the future of the tribes, others opposed relinquishing any of the aspects of sovereignty which had only recently been recognized, and pointed out that 300,000 acres of land was considerably less than the 12.5 million acres taken by the invalid 1794 treaty. Today, many Passamaquoddy and other Wabanaki people still question the compromises agreed to in the settlement.

Today, the two Passamaquoddy reservations are each governed by an elected governor, lieutenant governor and 6-person tribal council. When matters affect both reservations, a joint council meeting is called. As of 2005, the population of the two reservations was just under 3,500 people. The Passamaquoddy continue to send a non-voting representative to the Maine Legislature. Settlement money has been used to purchase land and for several successful business investments. There is a vibrant and growing tribal bilingual education program and excellent work is being done on the preservation of the Passamaquoddy language. Passamaquoddy craft people like Mary Gabriel (1909-2004) and her daughters Sylvia (1929-2003) and Clare received national recognition for their work.

Moving into the 21st century, there are still difficult issues to be dealt with, like the appropriate direction of economic development on tribal lands, and how to protect the health of the waters of their rivers and lakes and of Passamaquoddy Bay. There is always the tension of working on these and other issues within the State constraints on Passamaquoddy sovereignty. But what is clear is that the Passamaquoddy have maintained their identity as a people and nurtured their traditional culture. The resiliency of the Passamaquoddy will enable them to work through the complicated issues confronting them and to move forward as a sovereign people.

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Task Force on Tribal-State Relations. 1997. “At Loggerheads—the State of Maine and the Wabanaki.” Maine Rural Development Council, The University of Maine Cooperative Extension Service, Orono, ME. <<http://mrdc.umext.maine.edu/archive/wabanaki/loggerheads.htm>>

ADDITIONAL RESOURCES

Text Resources

- American Friends Service Committee. 1989. *The Wabanakis of Maine and the Maritimes*. Bath, ME.
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Internet Resources

Abbe Museum. From Present to Past: Wabanaki Timeline. <<http://abbemuseum.org/timeline.html>>

Brooks, Linda. Passamaquoddy Origins. <<http://www.geocities.com/CapitolHill/9118/pass.htm>> ***[This will get you to a series of excellent articles by Laura Brooks, a Passamaquoddy woman, on Passamaquoddy history and culture.]***

Maine Public Broadcasting. “A Timeline of Native American Culture.” <http://www.mpbn.net/homestom/timelines/natamtimeline.html> <<http://www.mpbn.net/homestom/timelines/natamtimeline.html>> ***[This is a good, if very general, outline of events important to Native American history.]***

The Passamaquoddy Tribe of Maine, Indian Township Tribal Government. <<http://www.peopleofthedaun.com>>. ***[Click on “History” for a good brief overview of Passamaquoddy history, and then on the “Maine Indian Land Claims Settlement” for a wealth of information (much of which is also available in *The Wabanakis of Maine and the Maritimes*).]***

Pleasant Point, Passamaquoddy Tribal Government Web Site. <<http://www.wabanaki.com>>